



BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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ARIZONA CORP. COMM.
TUCSON, AZ

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COMMISSIONER

In the Matter of the Application of Red Rock
Utilities, LLC for a Certificate of Convenience
and Necessity to Provide Water and Waste
Water

Docket No. WS-04245A-04-0184

Docket No. U-2160_____

Motion To Dissolve the Certificate
of Convenience and Necessity of
Red Rock Water Company and to
Rescind Decision No. 41719

On March 10, 2004, Red Rock Utilities, LLC ("Applicant") filed an application for a Certificate of Convenience and Necessity for certain lands located adjacent to the community of Red Rock, Arizona, in Pinal County.

At the time of the filing, the records of the Arizona Corporation Commission reflected that a Certificate of Convenience and Necessity ("CC&N") had previously been issued to a defunct entity known as the Red Rock Water Company (the "Defunct RRWC"), an Arizona corporation incorporated in June of 1971. See, ACC Decision No. 41719. The Articles of Incorporation of the Defunct RRWC provided, however, that the corporation would have an existence of 25 years, which term expired in 1996. On October

1 10, 1996, the ACC took administrative action to officially dissolve the Defunct RRWC,
2 because its corporate life had expired.

3 In 1971, when the now-Defunct RRWC was incorporated, the ACC issued a
4 CC&N to the company, entitling it to serve a portion of the lands now included in the
5 Applicant's application for a CC&N. Although there is no evidence that the CC&N of the
6 Defunct RRWC was dissolved at the same time that its corporate charter was revoked, that
7 would be the practical effect of the entity's dissolution.

8 Even though the ACC's records indicate that the Defunct RRWC was
9 terminated in 1996, it still continued to file reports with the Arizona Department of Water
10 Resources ("ADWR"). The annual reports to ADWR reflect the fact that the water
11 withdrawals of the defunct entity were as follows:

12 1997 = 0

13 1998 = 0

14 1999 = 0

15 2000 = 0

16 Taking as true the facts asserted in the defunct entity's reports to ADWR, it
17 cannot have any customers.

18 ACC Decision No. 41719 stated that, "As of October 18, 1971, a copy of
19 such Assignment of Franchise ... to the Red Rock Water Company ... was received in the
20 office of this Commission." In order to determine whether the franchise of the Defunct
21 RRWC is still in effect, the undersigned contacted the Pinal County franchise coordinator,
22 Mr. Gary Medina. Mr. Medina searched for, but could not locate an existing franchise
23 agreement with the Defunct RRWC. Mr. Medina stated that all franchises issued prior to
24 2000 were issued for 25 years, and that he believed that the Defunct RRWC franchise
25 would have expired in 1996. Mr. Medina did not believe that it was renewed, because he
26 did not find a Defunct RRWC franchise among those in a compilation he prepared in

1 2002. Although he admitted that it may have been in a vault with old records, he was
2 certain that there was not a current franchise agreement.

3 In any event, franchises issued by Pinal County, including the franchise
4 issued to the Applicant, are all non-exclusive, and the existence of a franchise (if any) that
5 permitted the Defunct RRWC to serve the territory included within the Applicant's
6 application for a CC&N, would not serve to limit the Applicant's ability to serve
7 customers within Pinal County.

8 Finally, and most dispositive, in order to ensure that the apparent existence
9 of the Defunct RRWC did not operate to frustrate Applicant's pending application, the
10 owners of the utility went so far as to track down the previous officers of the Defunct
11 RRWC. Attached hereto as Exhibit No. 1 are the acknowledgements of the two directors
12 of the Defunct RRWC attesting to the fact that:

13 "(1) The Red Rock Water Company has been dissolved by operation of law;

14 (2) The Red Rock Water Company has no assets;

15 (3) The Pinal County Franchise of Red Rock Water Company has lapsed;

16 and

17 (4) The Red Rock Water Company has ceased operating as a water utility."

18 For all the forgoing reasons, the Applicant therefore requests that the CC&N
19 of the Red Rock Water Company be dissolved.

20 Concurrently with the filing of this Motion, the Applicant has filed a
21 duplicate of this Motion in the Defunct RRWC Docket: No. U-2160. Copies of the filing
22 are being sent certified mail to the previous directors of the Defunct RRWC.

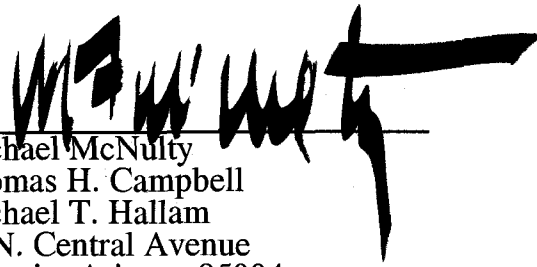
23 With the charter of the Red Rock Water Company revoked, the company
24 cannot lawfully do business in Arizona. As such, it cannot provide services to its
25 customers. Under the holding in James P. Paul Water Co. v. Arizona Corp. Comm'n,

1 137Ariz. 426, 671 P.2d 410, the Commission is authorized to delete the CC&N of any
2 entity that is unable to provide service to its customers.

3 Under A.R.S. Section 252, the Commission is authorized to rescind any
4 order or decision made by it. Because the Red Rock Water Company no longer exists, in
5 any real or legal sense of the word, the Commission should rescind its order granting the
6 Defunct RRWC a Certificate of Convenience & Necessity.

7 RESPECTFULLY SUBMITTED this 2nd day April, 2004.

8 LEWIS AND ROCA

9
10 
11 Michael McNulty
12 Thomas H. Campbell
13 Michael T. Hallam
14 40 N. Central Avenue
15 Phoenix, Arizona 85004

16 Attorneys for Red Rock Utilities, LLC

17 ORIGINAL AND thirteen (13) copies
18 of the foregoing hand-delivered
19 this 2nd day of April, 2003, to:

20 Arizona Corporation Commission
21 Utilities Division – Docket Control
22 1200 W. Washington Street
23 Phoenix, Arizona 85007

24 COPY of the foregoing hand-delivered
25 this 2nd day of April, 2004,
26 to:

Lyn Farmer, Chief Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

LEWIS
AND
ROCA
LLP
L A W Y E R S

1 David Ronald, Esq.
2 Legal Division
3 Arizona Corporation Commission
4 1200 West Washington Street
5 Phoenix, Arizona 85007

4 Ernest Johnson
5 Director, Utilities Division
6 Arizona Corporation Commission
7 1200 West Washington Street
8 Phoenix, Arizona 85007

7 Jane Rodda
8 Hearing Officer
9 Arizona Corporation Commission
10 400 West Congress, Suite 221
11 Tucson, Arizona 85701

10 Copy of the foregoing sent Certified Mail
11 this 2nd day of April, 2004 to:
12 Thomas J. Knapp
13 Former President, Red Rock Water Company
14 311A Chestnut Street
15 San Francisco, California 94133

14 Edward W. Memmer
15 Former Secretary/Treasurer, Red Rock Water Company
16 2835 West Chalfont
17 Tucson, Arizona 85741

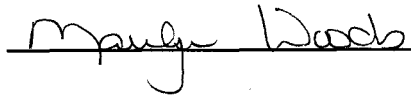
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Exhibit No. 1
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ACKNOWLEDGEMENT

The undersigned, being all the shareholders and directors of the Red Rock Water Company, do hereby acknowledge and certify that:

- (1) The Red Rock Water Company has been dissolved by operation of law;
- (2) The Red Rock Water Company has no assets; and
- (3) The Pinal County franchise of Red Rock Water Company has lapsed.
- (4) The Red Rock Water Company has ceased operating as a water utility.

Dated: Oct 02, 2002

SHAREHOLDERS:

DIRECTORS:

Thomas J. Krapp

Thomas J. Krapp, President

ACKNOWLEDGEMENT

The undersigned, being all the shareholders and directors of the Red Rock Water Company, do hereby acknowledge and certify that:

- (1) The Red Rock Water Company has been dissolved by operation of law;
- (2) The Red Rock Water Company has no assets; and
- (3) The Pinal County franchise of Red Rock Water Company has lapsed.
- (4) The Red Rock Water Company has ceased operating as a water utility.

Dated: 10/23, 2002

SHAREHOLDERS:

DIRECTORS:

Edward W. Memon

SECY./TREASURER &

DIRECTOR

ASSIGNMENT AND TRANSFER

For valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the Red Rock Water Company does hereby irrevocably assign, convey and transfer its service area and all of its service area rights, as defined under the Arizona Groundwater Code (A.R.S. Section 45-401 *et seq.*), to Red Rock Utilities, LLC.

Dated: Oct 22, 2002

By: Thomas J. Knapp
Its: President

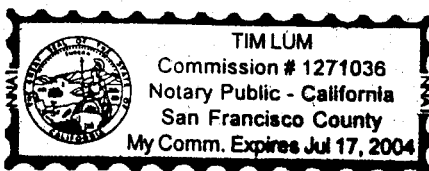
Red Rock Water Company

STATE OF California)
County San Diego)

On 10/22/2002, before me, TIM LUM, NOTARY PUBLIC personally appeared THOMAS J. KNAPP personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

[Signature]
Notary Public



[SEAL]